



This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.

RECEIVED

JUN 25 2003

ENVIRONMENTAL COVENANT

CITY MANAGERS OFFICE

By this deed, the City of Durango grants an Environmental Covenant ("Covenant") this 6th day of March, 2003 to the Colorado Department of Public Health and the Environment ("the Department") pursuant to § 25-15-321 of the Colorado Hazardous Waste Act, § 25-15-101, *et seq.* The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, the City of Durango is the owner of certain property commonly referred to as the Durango Mill Site North Parcel, located in Durango, La Plata County, Colorado, more particularly described in **Attachment A**, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, uranium mill tailings had been previously disposed on the Property by a previous owner; and

WHEREAS, pursuant to the Site Observational Workplan for the Durango, Colorado UMTRA Project Site, dated September 2001, the Property is the subject of remedial action pursuant to the Uranium Mill Tailings Radiation Control Act, P.L. 95-604 ("UMTRCA") and UMTRCA regulations, 40 C.F.R. § 192 Subpart B, and;

WHEREAS, the City of Durango desires to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind the City of Durango, its heirs, successors, assigns, and any grantees of the Property, their heirs, successors, assigns and grantees, and any users of the Property, for the benefit of the Department.

NOW, THEREFORE, the City of Durango hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the following environmental use restrictions which shall run with the Property in perpetuity and be binding on the City of Durango and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land. The City of Durango declares that the United States Department of Energy shall be a third party beneficiary of this Environmental Covenant. The City of Durango, its successors, and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns shall hereinafter be referred to in this covenant as OWNER.

855920
1 of 6

COV
R \$0.00 D \$0.00

Laplata County, CO



Linda J. Daley

1. Use restrictions

- A. No habitable structure may be constructed on the property without properly designed radon mitigation.
- B. No wells or drilling or pumping whatsoever shall be permitted or allowed, without the express written consent of the Department. The only exception to the foregoing is for monitoring and remedial wells installed by the Department of Energy, in connection with the on-going, approved remedial activities at the Property.
- C. No tilling, excavation, grading, construction, or any other activity that disturbs the ground surface is permitted on the Property, without the express written consent of the Department.
- D. No activities that will in any way damage any monitoring or remedial wells installed by the Department of Energy, or interfere with the maintenance, operation, or monitoring of said wells is allowed, without the express written consent of the Department.

2. Purpose of this covenant The purpose of this Covenant is to ensure protection of human health and the environment by minimizing the potential for exposure to any hazardous substance, hazardous waste, hazardous constituents, and/or solid waste that remains on the Property. The Covenant will accomplish this by minimizing those activities that result in disturbing the ground surface, and by creating a review and approval process to ensure that any such intrusive activities are conducted with appropriate precautions to avoid or eliminate any hazards.

3. Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. OWNER may request that the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. The Department shall consult with the United States Department of Energy before making any determination on the request for modification. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:

- a) a proposal to perform additional remedial work;
- b) new information regarding the risks posed by the residual contamination;
- c) information demonstrating that residual contamination has diminished;
- d) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and other appropriate supporting information.

4. Conveyances OWNER shall notify the Department at least fifteen (15) days in advance of any proposed grant, transfer or conveyance of any interest in any or all of the Property.
5. Incorporation OWNER agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.
6. Notification for proposed construction and land use OWNER shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.
7. Inspections The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.
8. No Liability The Department does not acquire any liability under State law by virtue of accepting this Covenant, nor does any other named beneficiary of this Covenant acquire any liability under State law by virtue of being such a beneficiary.
9. Enforcement The Department may enforce the terms of this Covenant pursuant to §25-15-322, C.R.S. The City of Durango and any named beneficiaries of this Covenant may file suit in district court to enjoin actual or threatened violations of this Covenant.
10. Owner's Compliance Certification OWNER shall submit an annual form to the Department, detailing OWNER's compliance, and any lack of compliance, with the terms of this Covenant. Such form will be due to the Department 45 days after OWNER's receipt of such form from the Department.
11. Notices Any document or communication required under this Covenant shall be sent or directed to:

Don Metzler
U.S. Department of Energy
Grand Junction Office
2597 B ¾ Road
Grand Junction, CO 81503

City Manager
City of Durango
949 East 2nd Avenue
Durango, Colorado 81301

Jeffrey Deckler
Remedial Programs Manager
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

City of Durango, has caused this instrument to be executed this 6th day of March, 2003.

City of Durango

By: Robert F. Ledger Jr

Title: City Manager
City of Durango
949 East 2nd Avenue
Durango, CO 81301

STATE OF COLORADO)
) ss.
COUNTY OF LA PLATA)

The foregoing instrument was acknowledged before me this 6th day of March, 2003, by Robert F. Ledger, Jr., as City Manager of the City of Durango, Colorado.

Witness my hand and official seal.

My commission expires: 12-9-03

Jarona Anderson
Notary Public

Accepted by the Colorado Department of Public Health and Environment this 14th day of April, 2003.

By: Howard Roitman

Title: HNWMD Director

STATE OF COLORADO)
) ss.
City and County of Denver)

The foregoing instrument was acknowledged before me this 14 day of APRIL, 2003 by HOWARD ROITMAN on behalf of the Colorado Department of Public Health and Environment.

Witness my hand and official seal.

My commission expires: October 21, 2003

Claudette M. Ferris
Notary Public

ATTACHMENT A
Land Description
Former UMTRA Mill Site (North)
Durango, Colorado

Two parcels of land in

LaPlata County, State of Colorado, New Mexico Principal Meridian, containing Seventy-nine and fourteen hundredths (79.14) acres, more or less, described as follows:

Township 35 North, Range 9 West of the N.M.P.M., North of the Ute Line

A tract of land situated in W1/4SW1/4 of Section 29, E1/2SE1/4 and NE1/4SE1/4 of Section 30, Lot 5 of Section 32, more particularly described as follows:

BEGINNING at the Southeast corner of said Section 30;

THENCE Westerly along the south line of said Section 30 to the Southwest corner of said E1/2SE1/4;

THENCE Northerly along the West line of said E1/2SE1/4 to a point on the South bank of Lightner Creek, said point being 1,039.00 feet Southerly of the Northwest corner of said E1/2SE1/4;

THENCE North 41°55'00" West, 231.00 feet;

THENCE North 37°44'00" West, 266.00 feet;

THENCE North 22°50'00" West, 317.00 feet;

THENCE North 62°00'00" East, 217.00 feet, to said Lightner Creek;

THENCE South 34°45'00" East, 436.00 feet, along said Lightner Creek;

THENCE North 05°39'24" East, 146.50 feet;

THENCE North 22°52'00" East, 102.72 feet, to the Southwesterly right-of-way line of U.S. Highway 550

THENCE South 39°10'30" East, 218.29 feet, along said right-of-way line;

THENCE Southeasterly along a curve to the left, having a radius of 1,255.90 feet and an arc length of 286.70 feet, chord bearing
of South 65°55'00" East, 286.10 feet;

THENCE South 85°12'15" East, 328.20 feet;

THENCE South 40°52'37" East, 414.27 feet;

THENCE South 48°27'30" East, 285.60 feet;

THENCE South 71°30'15" East, 714.30 feet;

THENCE South 78°30'00" East, 200.20 feet;

THENCE South 60°00'00" East, 174.70 feet;

THENCE South 37°22'15" East, 166.80 feet;

THENCE South 34°43'30" East, 171.90 feet;

THENCE South 34°02'45" East, 139.50 feet;

THENCE South 05°44'00" East, 82.90 feet;

THENCE South 28°07'15" West, 69.70 feet;

THENCE South 08°37'45" West 303.30 feet;

THENCE South 82°22'45" East, 38.50 feet;

THENCE South 12°00'53" West, 93.19 feet;

THENCE South 06°33'36" West, 106.66 feet;

THENCE South 05°52'41" West 55.19 feet;

THENCE South 26°08'17" East, 160.47 feet to the South line of said Section 29;

Also, that portion of said Lot 5 of Section 32, being more particularly described as follows:

Commencing at the Northwest corner of said Section 32;

THENCE North 88°27'00" East along the North line of said Section 32, a distance of 474.00 feet to the POINT OF BEGINNING;

THENCE South 20°08'00" East, 32.00 feet;

THENCE South 08°24'00" East, 91.00 feet;

THENCE South 34°43'00" East, 56.00 feet;

THENCE South 38°27'00" East, 42.00 Feet;

THENCE South 23°54'00" East, 53.00 Feet;

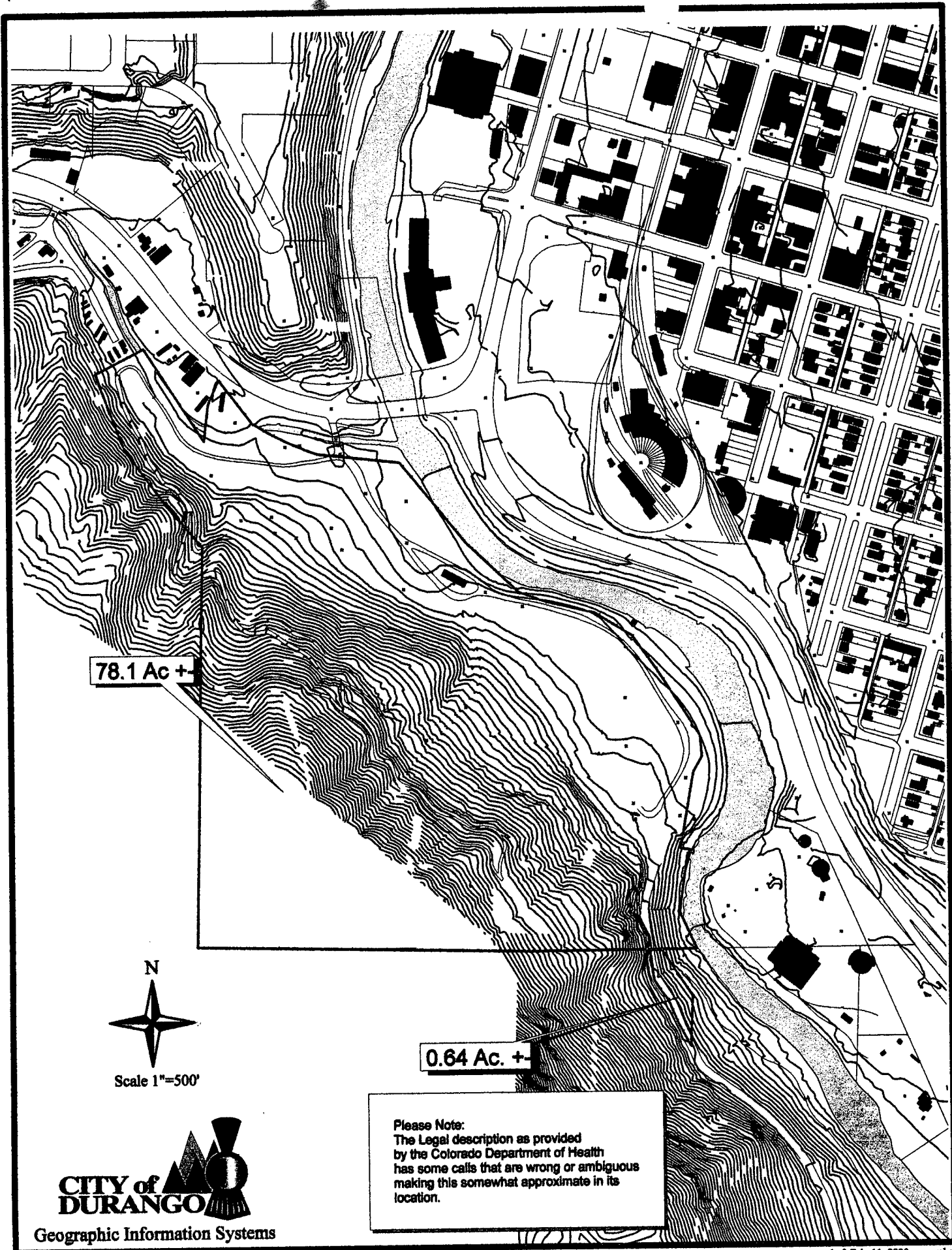
THENCE South 24°54'00" East, 51.00 feet;

THENCE South 30°39'00" East, 100.00 feet;

THENCE North 00°41'00" East, 199.00 feet

THENCE Northwesterly to a point on the North line of said Section 32, said point being North 88°27'00" East, 528.00 feet from said Northwest corner of said Section 32;

THENCE South 88°27'00" West, 54.00 feet along said North line, to the point of beginning.



78.1 Ac +/-

0.64 Ac +/-



Scale 1"=500'



Geographic Information Systems

Please Note:
The Legal description as provided
by the Colorado Department of Health
has some calls that are wrong or ambiguous
making this somewhat approximate in its
location.